

# Course Syllabus: Human Rights and Drug Policy

## STATEMENT OF PURPOSE

In conceptualising drugs and drug policy it is perhaps worthwhile to note some stylized facts which both demonstrate why drugs are a significant problem and why there is a need to restructure public policy on the basis of human rights.

- Drugs generate very large income flows both in production and in distribution. But in most countries drugs represent illegal activities and it is impossible to estimate with any confidence the scale of these activities both in monetary and non-monetary terms. Policies relating to drug production require a complex understanding of social, economic and political conditions and thus needs to draw on a range of disciplines – those of economists, sociologists and political scientists, psychologists, public health specialists, lawyers and so on.
- Understanding political and economic development in Latin America is impossible without a complex understanding of drugs and its impact on economic, social and political conditions – including of course aspects of regional security and military and economic relations with the USA. Drugs will increasingly determine international relations between many countries of Latin America and the USA, and thus need to be central to the analyses of political scientists, international relations specialists and military and security professionals.
- Less evident are the links between the changes in drug policy in Latin America which are driven by the insecurity many countries are facing and the break with the international consensus on drugs which is driven by US policy and the Global UN Conventions. Insecurity generated by drugs, the failures of existing drug policies in Latin America and in other countries, is leading to a gradual unravelling of the global consensus. This provides an opportunity for developing and implementing new policies that are based on human rights.
- Not least of the problems associated with drug use in many countries are the linkages to critical areas of public health where injecting drug use is playing a major role in the transmission of HIV/AIDS and hepatitis. In many countries sharing of needles and associated behaviours are the main driving forces behind the HIV/AIDS epidemic, with consequent personal and social costs. These factors have been recognised by UNAIDS and UNODC and others, and there is now an emerging consensus internationally for evidence-based policies that address the structural determinants of drug use and ones based on respect for human rights.

Most of the analysis of drugs and drug policy is focused on the domestic effects of drug use and these obviously vary between countries and regions. Manifestly drug policies in most countries are presently failing to achieve their stated outcomes.

- Some countries stand out for their liberal policies on drug use including most obviously the Netherlands and Portugal. And others for the illiberal nature of their policies such as the USA with its extensive use of imprisonment for minor drug-related offences, or Russia which still bans the availability of methadone as a substitution treatment. The Netherlands and Portugal are both countries where the effects of liberalisation of drug use have been associated with significant reductions in drug-related crime and in the costs of the judicial

system [saving on resources in policing, the justice system and imprisonment, and with major benefits for drug users and others].

- It would seem evident that countries that are concerned to develop evidence-based drug policies and which wanted to minimise the personal and socio-economic costs of drug use and drug policies would undertake research into the effects of different drug policy strategies, and more specifically into the experience of countries that have implemented more liberal policies. This would be a fruitful area for socio-economic research and be especially relevant for socio-legal studies. There are areas here for collaborative research and teaching that brings together the skills of economists, sociologists, behavioural disciplines such as psychology, and legal expertise including those specialised in human rights issues.
- There is evidence drawn from more or less all countries of activities often undertaken by the police and others engaged in the enforcement of the law, including often those involved in the provision of other public services [through the public and private health systems, the correctional system, employment provision and child and welfare services] of the infringement of human rights. These behaviours and practices need to be exposed to analysis and practices reformed if more effective outcomes are to be achievable.
- The catalogue of HR abuses is almost unending and without exception infringe individual human rights even within countries that pride themselves on their respect for the rule of law. Not least of the problems are forms of so-called treatment in many countries that are both simultaneously ineffective and barbaric. Many countries continue to exclude drug users from effective treatment including access to AIDS drugs that are life enhancing and available to other HIV positive people. The catalogue of HR failures in many countries is almost unending but these are amenable to change through processes of research and dialogue that leads to public policy reform.

## COURSE AIMS

It would be possible to extend the listing of examples where drug policy issues raise questions which require interdisciplinary approaches if they are to be successfully addressed. These policies are not going to be the same everywhere and at all times given that the underlying conditions are different and will require different solutions. But the principles on which policies need to be constructed are the same – relevance to actual conditions and founded on accepted principles of human rights and which can be shown to have outcomes that meet the needs of all those affected.

The aim of this Summer Session is to develop a more complex understanding of illicit drugs. In part so as to identify the contributions that different academic disciplines can make to the development of evidence-based policies. By processes of discussion and review of data, information and analysis to develop and apply human rights principles to the assessment of existing drug policies. To then proceed to reflect on the development of reform of public policy so that policies are based on accepted human rights laws and conventions, together with respect for the rule of law in all countries. The time is now ripe, given the unravelling of the global consensus on drugs, for exploring alternatives to existing policies based on best practice and respect for human rights.

## Prerequisites

No prior knowledge of Human Rights and Drug Policy is required of participants. The target audience is that typical for SUN courses and the programme is designed for high-achieving MA and PhD students, junior faculty, research staff in universities and other institutions and professionals. A key objective of the course is to emphasise the interdisciplinarity both of learning and of problem solving. It is thus an important objective in recruiting participants that non-standard disciplines be represented, and that new skills and capacities are applied to this area of public policy. In the Statement of Purpose [see above] some of the relevant disciplines are identified that are seen as being crucial in seeking a comprehensive analysis of Human Rights and Drug Policy. All participants are expected to be fluent in both spoken and written English.

## Brief Course Overview

One of the most significant changes in public policy since 1945 has been the application of human rights to many areas of national and international activity. Most countries have become signatories to international conventions and it is now increasingly common to assess public policies in many areas by the degree to which they observe accepted standards of human rights.

Public policy and those who implement public policy are increasingly held to account by the degree to which they meet national and internationally accepted human rights standards. These standards are now applied increasingly in areas which are economic and social and extend way beyond their earlier mainly legal and political boundaries.

It is in this context that the SUN will aim to establish appropriate national and international frameworks of human rights and to use these concepts, laws, and conventions, and their actual implementation, in an assessment of public policy relating to illicit drug use both globally and nationally. In effect to explore concepts of human rights and to ask questions of the degree to which Drug Policy fails to observe accepted standards and with what consequences.

The Framework for the SUN will therefore be as follows: -

- Human Rights – what are they and why are they important. How does one explain the extension of human rights to core areas of public policy and what are the implications of human rights for the assessment of public policy in the area of illicit drugs and other areas of addiction. [Professor Osiatynski]
- Human Rights – the international framework of conventions and organisations. What is the international framework of rights and what have been the determining factors in their development. A review of key UN conventions and organisations such as UNODC and the International Narcotics Board, and assessment of the so-called 'war on drugs'. [Mr. Barrett and Dr Bewley-Taylor]
- National Drug Policy – an identification and assessment of the core principles that have determined the public policy on drugs in selected countries [USA, UK, Portugal and Holland]. The situation in various Eastern European countries will figure prominently in later sessions. In assessing national policy how far do these fall short of accepted human rights criteria, laws and UN conventions. [Mr. Barrett and Dr Bewley-Taylor]

- Law enforcement and the use of the criminal law in the application of drug laws. A review of the ways in which the criminal law is used to deal with drugs and the extensive abuse of human rights that is often entailed in many countries. A detailed analysis and description of the use of the criminal law in selected Eastern European countries and elsewhere. [Professor Krajewski]
- Public Health and Drug Policy. Harm reduction – what is it and why are such activities necessary in the response to the abuses of drug laws and drug policy in many countries. A review of effective harm reduction activities in selected countries of Eastern Europe, and how these activities can mediate the harms caused by policies affecting those who use drugs and other population groups. [Ms Malinowska]
- Civil Society organisations and their role in the protection of human rights of those using drugs and those affected by the application of drug policies. A detailed review of the activities of the Hungarian Civil Liberties Union in the area of drugs and drug policy. An assessment of the HCLU's activities in the area of drugs and drug policy, and including site visits and discussions with affected populations. [Mr Denes and HCLU]
- Drug policy and human rights in countries where drugs are produced and traded. A review of the impact on human rights of aggressive state policies in Colombia [Plan Colombia] and elsewhere in Latin America. What has been achieved and with what consequences for the people of Colombia and the region. An assessment of the failures of policy and the consequential impact on human rights, and the destabilisation of economic, social and political systems. Why such aggressive policies are both counter-productive and destructive of human rights. [Professor Mejia and other faculty]
- Review of SUN course and discussion of how to move forward with reform of drug policies. Implications of course discussion for potential developments in the CEU School of Public Policy. [Professor Cohen].

[Note that some sessions will extend over more than 1 day].

## Bibliography

### Session 1: Professor Osiatynski

Wiktor Osiatyński, **Human Rights and Their Limits.**, Cambridge University press 2009: 70—86 and 105—126.

Wiktor Osiatyński "Rights of drug users and drug-dependent persons." Translated from Polish. In Kasia Malinowska—Sempruch (ed.) "Niezamierzone konsekwencje: polityka narkotykowa i prawa człowieka" (Unintended consequences: drug policy and human rights). International Debate Education Association 2005: 135—151.

Aryeh Neier "Human rights of drug users in times of HIV and AIDS." ( Ibidem: 279—284.) (Handout of the English original will be available)

Alex Wodak "Health, HIV Infection, Human Rights, and Injection Drug Use." In From Kasia Malinowska—Sempruch and Sarah Gallagher (eds) **War on Drugs, HIV/AIDS and Human Rights.** International Debate Education Association 2004: 140—157.

**Legislation for Health and Human Rights: Model Law on Drug Use and HIV/AIDS.** Canadian HIV/AIDS Legal Network 2006.

### Additional

Larry Gostin and Jonathan Mann "Toward the Development of a Human Rights Impact Assessment for the Formulation and Evaluation of Public Health Policies." In Sempruch and Gallagher: 89—111.

### Sessions 2 and 3: Dr Bewley-Taylor and Mr. Barrett

D. Barrett and M. Nowak 'The United Nations and Drug Policy: Towards a Human Rights-Based Approach' in **THE DIVERSITY OF INTERNATIONAL LAW: ESSAYS IN HONOUR OF PROFESSOR KALLIOPI K. KOUFA**, pp. 449-477, Aristotle Constantinides and Nikos Zaikos, eds., Brill/Martinus Nijhoff, 2009 available at [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1461445](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1461445)

David R. Bewley-Taylor, 'Challenging the UN drug control conventions: problems and possibilities,' *International Journal of Drug Policy*, 14 (2003) pp. 171-179

M. Costa, "Making drug control 'fit for purpose': Building on the UNGASS Decade,"

<http://www.unodc.org/documents/commissions/CND-Session51/CND-UNGASS-CRPs/ECN72008CRP17.pdf>

Jay Sinha, *The History and Development of the Leading International Drug Control Conventions*, (Report Prepared for the Canadian Senate Special Committee on Illegal Drugs) <http://www.parl.gc.ca/37/1/parlbus/commbus/senate/com-e/ille-e/library-e/history-e.htm>

International Harm Reduction Association, 'Global State of Harm Reduction 2010: Key issues for broadening the response' (overview of harm red and great thematic chapters on a range of issues from hep C to overdose) (2010)

China: Human Rights Watch 'Where darkness knows no limits': Incarceration, ill-treatment and forced labor as drug rehabilitation in China (2009)

Russia: Policing Drug Users in Russia: Risk, Fear, and Structural Violence, *Substance Use & Misuse*, 45:813–864 (2010)

Jamie Fellner, 'Race, Drugs, and Law Enforcement in the United States,' *Stanford Law and Policy Review*, Vol. 20: 2, pp. 257-291

#### Session 4: Professor Krajewski

*Summary of the Evidence and a Framework for Assessment* (chapter 13), in: R.J.MacCoun, P.Reuter *Drug War Heresies. Learning from Other Vices, Times, & Places*, Cambridge University Press, Cambridge 2001, pp. 300 – 327.

*Criminalization and decriminalization of drug use and possession* (section III, chapter 11), in: T.Barbor et al. *Drug Policy and the Public Good*, Oxford University Press, Oxford 2010, pp.163 – 177.

C.E.Hughes, A.Stevens *What can we learn from the Portuguese decriminalization of illicit drugs?* The British Journal of Criminology 2010 (advance access published July 2010; doi: 10.1093/bjc/azq038).

A.Stevens *Drugs, Crime and Public Health*, Routledge, London 2010.

#### Session 5: Ms Malinowska

Drug Policy and the Public Good , PAHO, Oxford University Press [2010], ch. 3, 4, 7,11 plus Section IV [Drug Policy and system Issues at the National and international Level s [ch 13, 14, 15].

Public Health and Human Rights Evidence –Based Approaches, ed Chris Breyer and H F Pizer, Johns Hopkins Press [2007], Section III Policy and especially chapter 14, 'Seeing Double: Mapping Contradictions in HIV Prevention and Illicit Drug Policy Worldwide' by D Wolf and Kasia Malinowska-Sempruch.

After the War on Drugs: Blueprint for Regulation, Transform Drug Policy Foundation [2009], esp Section 4 Making a regulated system happen [pp 67-84].

War on Drugs, HIV/AIDS and Human Rights ed by Kasia Malinowska- Sempruch and Sarah Gallagher [2004], Part 2 ch 6,7,9 and Part 3 ch 10, 11.

#### Session 7: Professor Mejia

Mejia D. and C. Posada, 2010. "Cocaine production and trafficking: What do we know?". In: *Innocent Bystander: Developing Countries and the War in Drugs*, The World Bank, published by McMillan/Palgrave.

Mejía D. and D Rico. 2010, "The microeconomics of cocaine production and trafficking in Colombia". Documentos CEDE #19, Universidad de los Andes, July.

Keefer, P., Loayza, N, and Soares, R. "Drug Prohibition and Developing Countries: Uncertain Benefits, Certain Costs". In: Innocent Bystander: Developing Countries and the War in Drugs, The World Bank, published by McMillan/Palgrave.

Mejía, D., 2010. "Evaluating Plan Colombia". In: Innocent Bystander: Developing Countries and the War in Drugs, The World Bank, published by McMillan/Palgrave.

Reuter, P., 2010. "Can Production and Trafficking of Illicit Drugs Be Reduced or Only Shifted?". In: Innocent Bystander: Developing Countries and the War in Drugs, The World Bank, published by McMillan/Palgrave.

Key Documents available in translation on the web at Global Drug Policy Program [OSI]

International Drug policy Consortium: Five Policy Principles [Jan 2009]

UN Review of Global Policy on Illegal Drugs: An Advocacy Guide for Civil Society [Jan 2008]

The Current State of the Drug Policy Debate [April 2008]

Legislating for Health and Human Rights: Model Law on Drug Use and HIV/AIDS [Jan 2006]

The Public Health and Social Impacts of Drug Market Enforcement [April 2005].

Also but not available in translation, Eurasian Harm Reduction Network: Drug Policy Position Paper [July 2010].

## Teaching mode

Note that a mix of teaching modes will be used and faculty are encouraged to minimise the use of formal lectures. Emphasis will be on discussion and interactive learning with maximal use of written and non-written materials. There exist considerable amounts of audio-visual media and these will be extensively used as a basis for group discussion. Time will be allocated for personal reading and participants will be encouraged to interact personally with faculty so as to deepen understanding of the issues. Site visits and discussions with civil society organisations and groups will be a feature of the programme of activities.

## Assessment and Expected Outcomes

One of the aims of the SUN is to reinforce the proposition that drug policy and those who are active as researchers, teachers and as providers of services are engaged in highly professional areas. It is therefore intended to recognise their contribution through appropriate certification relating to the SUN. All those attending the course will be provided by CEU with a Certificate of Attendance. Opportunities will also be provided during the course for personal discussions with Faculty. It is intended that further work after the conclusion of the SUN be encouraged both in respect of research and programme analysis and development, and this will be suitably recognised through the

certification process. Faculty will be prepared to provide follow up assistance through personal agreement with students.

CEU policy on Certification is as follows:

#### Certificate of Attendance

SUN awards a certificate of attendance upon successful completion of the course. In order to gain this certificate, participants will be expected to attend and actively participate in all classes and complete assignments required by the course.

#### Professional Development

The course is offered for professional development for academics and practitioners. Those who wish to obtain credits that count toward their degree should consult their home institution in advance whether the CEU SUN course can be accepted for credit transfer. The CEU Summer University Office will be able to provide all course documentation, such as course description, syllabus, reading list, etc. upon request."